

ISSUE DATE: May 24, 1999

DOCKET NO. G-007, 011/M-99-137

ORDER APPROVING TWO TARIFF PROVISIONS AND DECLINING TO APPROVE
ANOTHER

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayer
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Application by Peoples
Natural Gas Company and Northern Minnesota
Utilities, Divisions of UtiliCorp United, Inc. to
Add a Tariff Concerning Excess Flow Valves

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PROCEDURAL HISTORY

On February 5, 1999, Peoples Natural Gas Company and Northern Minnesota Utilities, Divisions of UtiliCorp United, Inc., (the Companies) filed a petition requesting approval of a tariff concerning the installation, repair, resetting, replacement, deactivation, and removal of excess flow valves for their single residence, residential gas service customers.

On March 10, 1999, the Minnesota Department of Public Service (the Department) filed comments recommending approval of the Companies' petition.

The Commission met on May 13, 1999 to consider this matter.

FINDINGS AND CONCLUSIONS

I. THE COMPANIES' PROPOSED TARIFF

In their petition, the Companies requested approval to add rules and regulations to their tariffs concerning the installation, repair, resetting, replacement, deactivation, and removal of Excess Flow Valves (EFVs) for single-residence, residential gas service customers, indicating that these provisions were consistent with the requirements established by the United States Department of Transportation (DOT) in 49 CFR 192.383. The Companies requested that their proposed EFV language be added to Tariff Sheet No. 23 (NMU) and Third Revised Sheet No. 21 (NMU).

Essentially, the Companies' tariffs provide three things:

1. that written notification is required, when it is required, to whom it is required, and what it shall consist of;
2. that the installation charge for a new service will be thirty (\$30.00) dollars and that post-installation activities (e.g. repairing, resetting, replacing, and deactivating an EFV) will be charged to the customer at Actual Cost as determined by the Company; and
3. that the Company shall not be liable for failures of or defects in EFVs installed by the Company.

II. THE DEPARTMENT'S COMMENTS

In its comments, the Department reviewed the issues of customer coverage and installation costs and concluded that the Companies' proposed tariff language complied with federal requirements on those topics. The Department did not specifically analyze, but did not object to, the additional tariff language which sought to shield the Companies from any liability to the customer for failures of or defects in any EFVs they installed.

III. COMMISSION ANALYSIS

On February 3, 1998, the DOT adopted a regulation that requires operators of gas service lines (gas distributors), beginning February 3, 1999, to provide certain notification to customers who request new service lines or whose service lines the operator determines will be replaced, provided the lines in question will operate continuously throughout the year at pressure not less than 68.9 kPa (10 psig) and that serves a single residence. 49 CFR 192.383 (b). The notification required to be given to the identified customers must explain:

- (1) that an excess flow valve (EFV) meeting certain performance standards is available for the operator to install if the customer bears the cost associated with installation;
- (2) the potential safety benefits that may be derived from installing an excess flow valve, including that the EFV is designed to shut off the flow of natural gas automatically if the service line breaks; and
- (3) that if the customer requests the operator to install an EFV, the customer bears all costs associated with installation and what those costs are; and that the costs for maintaining and replacing an EFV may later be incurred and what those costs will be, to the extent known.

The regulation also requires operators to keep record of the notice it is currently using and evidence that it has sent this notice to the relevant service line customers. 49 CFR 192.383 (f).

The Commission finds that the Companies' first two proposed tariff provisions meet the requirements of 49 CFR 192.383. They are reasonable and the Commission will approve them. The Companies' third proposed tariff provision, purporting to eliminate the possibility that the Companies could be held liable for failures of or defects in EFVs they install, is not required or specifically authorized by the DOT regulation in question and deserves further analysis. The Commission is not persuaded, on the basis of the record established in this matter, that such provision is reasonable and in the public interest. Since the Companies bear the burden of proof and persuasion on that point, the Commission will not approve this provision.

ORDER

1. Peoples and NMU's request to add certain language to regarding Excess Flow Valves to Tariff Sheets Original Sheet No. 23 (Peoples) and Third Revised Sheet No. 21 (Peoples) in order to meet requirements of 49 CFR 192.383 is approved. The proposed tariff language regarding limitation of liability, however, is not approved.
2. Within 15 days of this Order, Peoples and NMU shall file revised tariff sheets consistent with this Order.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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